

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:19-00159

ARUN DHAVAMANI

**MEMORANDUM OPINION AND ORDER**

Pending before the court is defendant's motion to participate by videoconference in the upcoming evidentiary hearing in this matter scheduled for January 31, 2022, at 1:30 p.m. in Bluefield. (ECF No. 136.) Defendant has also filed a waiver of his physical appearance insofar as he may be granted permission to appear by videoconference. (ECF No. 138.) For the reasons that follow, the court will reluctantly deny the motion.

Defendant wishes not to travel to Bluefield, West Virginia, from the Buffalo Federal Detention Center in Batavia, New York (the "Batavia Facility"), where he is currently housed. Staying put would avoid the need for defendant to quarantine after traveling. Defendant also points out that video participation would conserve the resources of the U.S. Marshals Service.

The court prefers in-person participation whenever possible. Under these unique circumstances, however, the court was inclined to grant the motion. What leads the court to deny the motion is the substantial doubt that remains over the

Batavia Facility's ability to facilitate a video appearance. The court has attempted to contact the Batavia Facility by email twice to ascertain whether a video appearance would be feasible: once on December 14, 2021, and again on January 4, 2022. To date, the court has received no response to either email.

Given the above, the court lacks confidence in the ability to conduct this hearing by videoconference. A false start in the hearing due to technological difficulties would disrupt the schedules of the court, parties, and witnesses. Further complicating matters is that defendant desires the assistance of an interpreter, which may make defendant's ability to participate remotely more challenging. This is a situation where the court is uncomfortable proceeding by videoconference without confirmation from the Batavia Facility that it is willing and able to facilitate proceeding that manner.<sup>1</sup> Accordingly, the court **DENIES** the motion to appear by videoconference (ECF No. 136).

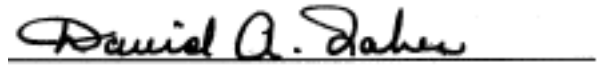
The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

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<sup>1</sup> Ideally, the court's IT personnel would be able to conduct a test prior to the hearing.

**IT IS SO ORDERED** this 7th day of January, 2022.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge